

BIENNIAL REPORT

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR.

FOR THE YEARS 1885-6.

LINCOLN, NEB.:
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1887.

REPORT OF THE ATTORNEY GENERAL.

ATTORNEY GENERAL'S OFFICE,

To His Excellency James W. Dawes, Governor of Nebraska :

In accordance with the constitutional requirements, I have the honor to lay before you the bi-ennial report of the business of this department, ending November 30th, 1886.

Our State has advanced with such rapid strides, that its various departments are crowded with work, but in no instance has the business accumulated so rapidly, as in the office of the Attorney General. The Constitution of 1875 makes the Attorney General an executive officer of the State, and in that early day his duties were so limited that an allowance for clerk hire in this department was prohibited, but the large increase of business during the past few years, makes it impossible for one man to properly attend to the same, and as a consequence a large part of the work must be delayed or go unattended altogether, and I would most respectfully ask Your Excellency to urge upon our Legislature the necessity of a law creating a Deputy, or, Assistant Attorney General, as in such cases made and provided in the other State Departments.

I find that on a change of administration the incoming officers very frequently call upon the Attorney General for his written opinion, as provided in Section 3, Article 5 of Chapter 83, Comp. Statutes, and under this Section considerable time has been devoted, and Exhibit "A" hereto attached, shows a few of the opinions that have gone out from this department.

The Attorney General is also made a member of the boards of Educational Lands and Funds, Public Lands and Buildings, Purchases and Supplies, and a member of the Board of Rail Road Commissioners. The care required in the performance of the duties in these various departments necessitates much time out of the office, and in all such cases the doors of his office are closed to the great detriment of the public service.

One of the greatest demands of the Attorney General is the constant calling upon him for his opinion in writing from the officers of various Counties and Municipalities throughout the State and by the people in general. So great has become the inflow of this class of correspondence that it has been utterly impossible for me to keep up. At first I tried to avoid the private correspondence by sending out a printed circular explaining the want of time to answer the same, but it seemed useless, and in cases where no answers were given the parties were offended. So I have made every effort to accommodate the people, where time would permit. A considerable part of my nights have been passed in attending to this class of work, and I would ask that a stenographer may be placed in this office, which would relieve me from a great amount of business that is constantly pressing this department. I do not believe that the people of this State demand that the heads of the various departments do the laborious duties that arise with our greatly increased population. This department should be on an equality with that of the Attorney General of other States, and by extending the additional privileges herein asked for, I can assure you that this office will, during the ensuing two years compare favorably with like departments of other states.

ESCHEATED ESTATES.

In the matter of Escheated Estates the law as now declared, is inadequate to realize the full value of such land when sold, and I would suggest that all real estate that comes to the State by escheat, be first appraised by some tribunal, and if the land

fails to bring the appraised price, that the Treasurer may be allowed to sell the same at private sale.

LIBRARY.

When I first took charge of this department, I found that owing to the limited number of books in the office considerable part of my time was spent in the State Library and it often happens that more time is spent in making preparations to leave my office to go to the State Library than is required in looking up the desired point of law. And I would ask that an appropriation be made to this department for the purpose of buying a set of leading text books mostly used in this office.

RIGHT OF WAY OVER OUR EDUCATIONAL LANDS.

There is considerable confusion in the manner of acquiring the right-of-way for railroads passing through our educational lands and for depot grounds. Section 105 of Chapter 16, provides for filing a plat of the survey of its line, and for depot purposes with the Secretary of State, that the lands vest in the railroad company upon paying the value of the lands taken for depot purposes, but the right-of-way of one hundred feet is given to such company.

There are several objections to this law :

1st. The Section was enacted in 1869, but subsequently thereto our new Constitution went into effect, and Section 8 of Article 8 provides that our educational lands shall not be sold for less than seven dollars per acre, nor less than the appraised value.

This Section of our Constitution abrogates that part of Section 105 giving any part of our lands away.

Section 18 of Article 3 also provides that lands under the control of our State shall never be donated to railroad companies, private corporations, or individuals.

The next objection to Section 105 is, that there is no method pointed out by law by which the value of the land taken can be ascertained. The Governor, under said Section is to make a deed conveying in fee simple to the railroad companies, the lands so selected, upon proof of certain facts and upon paying the full value for said lands. Now the question will arise, how is the full value to be ascertained? There is no mode pointed out of appraising the same.

The general law regulating the leasing and selling of our common school lands is not applicable, as under this law the land is sold to the highest bidder, and would often defeat the object of the law, that of encouraging the building of new railroads in our State. Then again condemnation proceedings are inadequate as there is no method of bringing our State into a court, when the value of our lands is at issue.

There is no power given to the Governor to appoint appraisors.

Then again the question will arise as to the right-of-way and for depot grounds, over and on such of our lands as are now held under contract of sale and lease. In many cases the lessees, or purchasers are delinquent in their annual payments, and they never intend to pay up, but hold the lands until forfeited and re-sold to some other person. If the money arising from right of way or for depot grounds went to the holder of the lease or sale contract, the State would, in many instances, lose the amount, and in all such cases I have directed that all moneys arising under Section 105 be paid into the State Treasury and the parties holding said lands be given credit on their contracts and the amount of land so taken be deducted from the contracts, but here another question will arise as to the damage that might accrue to the other parts of the land not taken, and I would respectfully suggest to Your Excellency to recommend to the Legislature the enacting of such a law as will protect the interests of the people, the corporation, and the State, in its permanent School Fund.

STATE AND FEDERAL JURISDICTION.

I find that there is such a growing tendency on the part of the Federal Courts to extend their power, that the machinery of our State Courts is at times almost paralyzed. This is caused mostly by a strained construction of the Federal Judiciary Act, and for the most trivial pretext the Federal Courts are looked to as the final tribunal in the determination of a criminal trial. The above act has been so construed, that *in the discretion* of a Federal Judge, a prisoner in our State Penitentiary, who, having been duly convicted in our District Court, with the judgment of conviction affirmed by our State Supreme Court, can be released by a *Habeas Corpus*, and the State is obliged to carry its convicted felons to and from the Federal Courts, wherever they may be in session, and that too, at the Judge's discretion. This, I believe to be wrong, and should be remedied by our Representatives and Senators in Congress, and a line clearly and distinctly drawn between our Federal and State Courts. The evils existing arise in many other ways, to the detriment of the people of our State. Take for instance the foreclosure of a mortgage on a Nebraska farm. The mortgagee living in a foreign state sends his money here to be loaned; he is satisfied with the security, and willing to rely on the citizen of our state and his securities for payment. A technical default is made in paying interest. The mortgagor being a non-resident of our state, brings his action to foreclose his mortgage in the U. S. court. A judgment is rendered against him (rightfully, too, we will admit) but only after long and tedious proceedings. But the large and expensive bill of costs is always sufficient to absorb a farm of eighty acres valued at fifteen hundred dollars on one years' default of interest on a \$500 mortgage. While in our state courts the costs would not equal one-tenth of the amount allowed in the Federal Court.

Writs of Error are allowed by one of the Judges of the Supreme Court of the United States when in their opinion a federal question is raised, and as the opinion of a human being is so changeable, I believe it would be greatly to the interest

of our people that the jurisdiction of the Federal Court should be given in express terms, and should be so limited in other respects that the poor man can litigate his rights as well as the rich. Where a non-resident feels perfectly safe in loaning his money on a Nebraska farm, he should be compelled to go into our Nebraska courts for redress in case of a violation of the contract, or his costs be limited to those of our State Courts.

Then again a judgment obtained in the Federal Court becomes a lien on the real estate of the defendant in every County in Nebraska. This law should be so amended as to require the plaintiff to file a transcript of the judgment in the County, before it becomes a lien on the real estate therein. The necessity of this is readily seen when we know that the County records alone are examined to perfect a title. There are many instances, where strangers purchasing homes in our State, have been confronted with a large judgment and costs from our U. S. Courts, after having once paid the full value for said land.

Again, The eleventh amendment to the Constitution of the United States, provides, "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted *against one of the United States*, by citizens of another State, or by citizens or subjects of any foreign state." And yet it is true that this plain provision of our Federal Constitution *has been so construed* that instead of suing the State, a citizen of another State may sue the State officers, and effect the rights and property of the State in this indirect manner.

Article 10 of the amendments to the Constitution of the U. S., provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it, to the States, *are reserved to the States* respectively, or to the people."

These few facts are mentioned to show the necessity of some reform legislation by Congress in these respects, wherever an Act will cover the cause of complaint, and that our Senators and Representatives may protect us in those rights *that are reserved to the States, or to the people.*

CASES IN THE SUPREME COURT.

Annexed hereto is schedule "B" comprising a list of the cases in which the State is a party or interested therein, that have either been decided within my term of office, or are now pending in the Supreme Court.

SUPREME COURT OF THE UNITED STATES.

Schedule "C" are the cases that have been determined in the United States Supreme Court, and those that are now pending.

There are other cases that are liable to go into said court, and an appropriation is asked, for the purpose of defraying the necessary expense incurred therein.

On June 22d, 1886, the sum of Fifty Dollars was received by the Attorney General as interest on mortgage given by Sweet & Brock to the State. The mortgaged property has been sold to Louie Meyer. \$50 00

June 22d, 1886, paid into State Treasury, \$50 00

In conclusion I wish to thank Your Excellency for the many kind favors shown to this department; and to the Board of Public Lands and Buildings and other State Officers I am under many obligations for the many kindnesses shown me and for the united efforts of each member, in relieving this office of much work that would naturally fall to it.

Lincoln, Neb., Dec. 1st, 1886.

WM. LEESE, Atty. General.

EXHIBIT "A."

Mr. H. A. Babcock, Auditor of Public Accounts:

DEAR SIR:—In the case of the Water Bonds of the village of Albion handed to me to examine as to their legality, I will say: That the history of the bonds so furnished fails to show that an ordinance was enacted by the village trustees, as a basis or foundation on which rests their bonds, and creating the power and authority to issue the same.

Section 69 of chapter 14 gives additional powers to cities and villages.

* * * To enact *ordinances* for certain purposes. Among the rest, under sub-division 15 of section 69, to vote the bonds in question.

Section 59 provides the manner of enacting ordinances, and this Section has been entirely disregarded. The Village Board derive all their power to bind the village by these Sections, and their exercise of power is limited, and qualified by the law creating them.

The Section also provides for the enacting of a By-Law as well as Ordinance, and a By-Law is defined by Worcester as a local law of a town, and is used in the same sense as Ordinance; and to make a By-Law effective it will be necessary to follow all the formalities of the law relating to Ordinances, and I am of the opinion that to vote Water Bonds it can only be done by enacting an Ordinance first to do so. If such was not the law every sub-division of said Section 69 could be carried into effect without an Ordinance, as for instance: To levy taxes, to regulate and prohibit the sale of intoxicating liquors, and thirty-four other sub-divisions, and such I do not think will be contended for; and any other construction would render that part of Section 69, outside of the sub-divisions, superfluous, and such, I do not believe, was the intention of our law makers.

Lincoln, Nebraska, May 11th, 1886.

WM. LEESE, Attorney General.

SYLLABUS.

1. A person extradited for a crime under the provisions of Ashburton treaty between the United States and Great Britain cannot be detained in custody and prosecuted for a different offense than the one specified in the warrant of extradition.

The tenth section of the treaty known as the Ashburton treaty provides for extraditing persons charged with the crime of murder, assault with intent to commit murder, piracy, arson, robbery, forgery, or uttering forged paper.

There is no law existing between the United States and any foreign power except that made by a treaty, and the above agreement between our Government and Great Britain provides only for seven different crimes, and thereby excluding all other crimes under our laws.

The Congress of the United States in 1848 enacted the law regulating the extradition of all persons accused of crimes, and Section 5275 of the Revised Statutes of the United States makes it the duty of the President to take all necessary measures for the safe keeping of such person extradited until the final conclusion of his trial for the crimes or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter.

This section contemplates a trial only for the crimes or offenses that are specified in the warrant, and such is the construction of the Federal authorities on this subject. Secretary Bayard in a recent letter to the Governor states that for the arrest and detention of a person (who has been extradited), for any other crime than that specified in the warrant, or that is not mentioned in the treaty, would greatly embarrass our government in making a new treaty with such foreign power. Such a treaty is to be construed by the same rules as any other contract, in ascertaining the intention of the parties; and I am of the opinion that where an accused person has been extradited that he cannot be

legally arrested and tried for any other crimes than those specified in the treaty and warrant of extradition until a reasonable time has elapsed after the person has been discharged.

Lincoln, Nebraska, April 24, 1886.

WM. LEESE, Attorney General.

SYLLABUS.

Cities of the second class and villages are not required to pay a fee of one-fourth of one per cent to the Auditor of Public Accounts for the registration of city or village bonds.

There is only one of our laws that relates to the payment of a fee of one-fourth of one per cent for registering bonds, and that is found in Section 12 of Chapter 9, Compiled Statutes, Page 88. "Whenever the holder of County bonds shall present the same to the Auditor of the State for registration, etc., etc. The Auditor shall be entitled to a fee of one-fourth of one per cent, etc., etc., to be paid by the holder thereof."

This Section limits the charging of a fee to counties only, and I can see no good reason why it should be extended to a city, village or a school district.

The Legislature has made it the duty of the Auditor to register all such bonds, but has failed to provide for the payment of a fee for such services, as has been done in the case of County bonds. And while I do not believe that the legislature intended to require the Auditor to do and perform this service, for every person and corporation, that is local in its nature, gratuitously, and receive his pay from the State at large in the nature of a salary. Still I can discover no good reason why the Auditor can charge a fee for this or any other service where the law fails to provide one, and until the Legislature makes some provision for the payment of a fee to the Auditor for registering the class of bonds named, I do not believe that he has a legal right to charge one.

Lincoln, Nebraska, August 23, 1886.

WM. LEESE, Attorney General.

OPINION TO THE BOARD OF PUBLIC LANDS AND BUILDINGS.

To the Hon. Jos. Scott, Commissioner of Public Lands and Buildings for Nebraska.

MY DEAR SIR :—In answer to your question whether the appointment of a steward and matron for the Hospital for the Insane lies with the Board of Public Lands and Buildings or with the Governor of the State, I would beg leave to say :

That prior to the adoption of our present Constitution the power was with the Board of Trustees as provided in Section 6 of Chapter 40, Compiled Statutes.

Under Article 5, Section 19, of our Constitution, the Board of Public Lands and Buildings came into existence, and was given the general supervision and control of all the buildings, grounds and Lands of the State, the State Prison, Asylums, and all other institutions thereof, except those for educational purposes, and they shall perform such duties and be subject to such rules and regulations as may be prescribed by law. "In the construction of our Constitution the whole must be considered with a view to ascertain the sense in which the words were employed; and its terms must be taken in the ordinary and common acceptance, because they are supposed to have been so understood by the framers and by the people who adopted it." Sedgwick on construction of St. and Constitutional law, Page 413. And undoubtedly this is the proper rule of construction.

When the people of our State voted on the adoption of our Constitution, they looked at the words therein employed and judged them by their general use. Now measuring Sec. 19, Article 5 by this rule of construction, does the Section vest the Board with the power to appoint and remove any or all the officers of our State institutions? I think not. And if the power exists in the Board, it must be in some Legislative act conferring such power.

Our Supreme Court has passed upon this question in the case of the State on the relation of Davis vs. Bacon. 6 Nebraska 288 and 9. The Court says in its construction of the act of 1877 relative to the duties of the board, under Section 7 of the act, making it one of the duties to investigate charges and report the same to the Governor, if it was contemplated for the Board to appoint and remove officers, it would have so provided and not have the report of the investigation referred to the Governor.

Take the law regulating the Reform School. There the power is in the Board to appoint, and on the removal of the Superintendent of that institution, it may be done and the Governor not be aware of the fact.

The Court further holds that the language of Section 7, Article 7, Chapter 83, combats the power of appointments or removals, and is also repelled by laws enacted prior to the creation of the Board, still in force and not repugnant to the act of 1877, whereby the Governor alone is authorized to appoint and remove the Warden of the Penitentiary, and also the Superintendent and assistant Physicians of the Hospital for the Insane.

If the Constitution or laws made subsequent empowered the Board to appoint generally, then the power of the Governor to appoint these officers would be gone, and the authority vested alone in the Board. Such I believe is not claimed by the Board. And, therefore it seems to be clear that the authority to appoint officers of state institutions is not vested in the Board of Public Lands and Buildings by virtue of our Constitution's own force and effect. Nor does the act of 1877 and the laws amendatory thereof give the Board such power. And unless the authority is vested in the Board, by virtue of their succession to the Board of Trustees, as provided in Section I of Chapter 40, Compiled Statutes. Under Section 6 of Chapter 40 the power is vested in the Board of Trustees to appoint, upon the nomination of the Superintendent, a Steward and Matron, who, together with the Superintendent and Assistant Physician, shall be styled the resident officers of the Hospital, and shall reside in the same and be gov-

erned and subject to all the laws and by-laws, etc. The Matron under this Section is an officer of the Institution, and if so, then the question falls within the rule laid down in the State &c. vs. Bacon cited above.

Then again the question has been indirectly passed on in the case of the State ex rel Carter vs. The Board of Public Lands and Buildings. 7th Nebraska, Page 42.

In this case the relator had been appointed Physician of the Penitentiary by the Board of Prison Inspectors, who had full power to make the appointment under the then existing laws. The creation of the Board of Public Lands and Buildings by operation of law succeeded to the powers of the Prison Inspectors, but the Board possesses no power except such as is conferred by the Constitution creating them, or by some act describing their duties and powers.

Section 10, Article 5, of the Constitution, places the nominating and appointing power in the Governor, of all officers whose offices are established by the Constitution, or which may be created by law, and whose appointment or election is not by law herein provided for.

The Court holding that the Board of Prison Inspectors ceased to exist by limitation of the Constitution in January, 1877, and by a parity of reasoning the Board of Trustees of the Hospital for the Insane ceased to exist by the same causes. The present Board of Public Lands and Buildings also succeeding to the powers of the former Trustees. Now if the power of appointment ceased to exist in the case of the Prison Inspectors, and their successors have no power to appoint or remove officers, then it is equally clear that the same reasoning will apply to the powers of the Board as successors of the Trustees of the Hospital for the Insane, and the decision is as binding in the case at bar as in the one decided.

While I regret very much that the Board are held responsible for the proper management of the Hospital for the Insane,

and also for the proper disbursement of the funds appropriated, without the power to appoint the persons to oversee the same and take charge of the funds, still it is a matter for our Legislature to consider, and remedy the evil if one exists. Our Supreme Court is the beacon light that points out our path to a safe harbor, and on the question at bar the Court has at two different times declared the law, and it is the duty of the Board of Public Lands and Buildings to follow the same. We should at all times obey the rules of our Court, adhere to its mandates, and strengthen and support it by acknowledging its independent character, and while we keep ourselves within the bounds of its decisions, it is impossible that we can materially err.

I am of the opinion that the only power under existing laws, to appoint or remove the Matron of the Hospital for the Insane, is in the Governor of the State.

Lincoln, Nebraska, Sept. 21st, 1885.

WM. LEESE, Attorney General.

SYLLABUS.

1. Personal taxes are due at the time the tax list is delivered to the County Treasurer.

Section 89 of Chapter 77, Compiled Statutes 504, provides: That the County Treasurer's duty is to levy and collect the personal taxes of all persons who neglect to attend at the Treasurer's office and pay his taxes, until the first day of January next after the same becomes *due*.

Section 105, provides. On the first day of February of the year after which taxes shall have been assessed, all unpaid personal taxes, except taxes in cities of the first class, shall become delinquent and draw interest thereafter at the rate of ten per cent per annum, which interest shall be collected the same as the tax so due.

There is no provision of law declaring at what time taxes shall become due.

Section 83, provides: The tax list shall be completed and delivered to the County Treasurer, on, or before the first day of October annually, and before its delivery the County Clerk shall attach a warrant under the seal of the County which warrant shall be signed by the Clerk and shall in general terms *command the said Treasurer to collect* the taxes therein mentioned, according to law.

This is the only authority that makes it the County Treasurer's duty to collect the taxes.

The other Sections tell *how* the taxes are collected and *when*.

These conflicting provisions should be so harmonized, that all may stand. It is not presumed that the authority is given to levy and collect the taxes under Section 89 before they are delinquent under Section 105, and in construing the same, I am of the opinion,

1st. That under Section 83, personal taxes are due at the time the tax list is placed in the hands of the County Treasurer.

2d. That taxes are receivable, from the time the County Treasurer received the tax list until the first day of January next after they become due.

3d. That after the first day of January the Treasurer is directed to levy and collect the said taxes as provided in Section 89.

4th. That on the first of February thereafter the taxes draw interest by becoming delinquent, which interest shall be collected the same as the tax so due. Section 105.

Lincoln, May 21, 1886.

WM. LEESE, Attorney General.

SYLLABUS.

Foreign corporations cannot exercise the right of eminent domain in Nebraska.

Section 8 of Article 11 of the Constitution of Nebraska provides; that no railroad corporation organized under the laws of any other State, or of the United States, and doing business in

this State shall be entitled to exercise the right of eminent domain, or, have power to acquire the right of way or real estate for depot or other uses until it shall have become a body corporate pursuant to, and in accordance with the laws of this State.

The object of this provision was to bring all railroad corporations doing business in this State, within the jurisdiction of the State Courts.

The practice in many other States has been to remove all questions arising between the people and the corporations from the State to the Federal Courts, and in all such cases, the expense of litigation is so great in the Federal Courts that the citizen must be possessed of a large share of this world's goods, to enable him to carry on a law suit in that court. The people of our State foreseeing this great hardship, made ample provision for their protection in this regard by the adoption of Section 8 of Article 11 aforesaid, but in many instances foreign corporations doing business in our State evade this plain provision of our Constitution by an indirect proceeding by certain individuals forming a corporation and condemning the lands through our State for right of way and depot grounds, and then leasing or assigning all their right, title and interest in and to such railroad to the foreign corporation, and the last named corporation then continues to do the business in our State under its foreign charter and when a controversey arises between such corporation and a citizen of this State, the case is removed to the United States Courts which practically shuts off all litigation by a poor man, and all this too, is in direct conflict with the spirit of our Constitution, which seems to me to be a fraud on the rights of the people of our State, and should be met with a proper remedy.

Lincoln, July 30, 1886.

WM. LEESE, Atty. General.

TO THE BOARD OF PUBLIC LANDS AND BUILDINGS.

GENTLEMEN :—In answer to the matter referred to me regarding the appraisment of Sec. 16, Town 3, Range 16, in Franklin County, I would most respectfully submit the following :

I have carefully examined the communications sent in to your office, and from the case therein made I do not deem it sufficient to justify the State in commencing proceedings against the purchaser to annul the contract.

The Legislature of 1875, in their wisdom, deemed it for the best interests of the state to place the appraisement of our educational lands with the officers of the County in which the land is situated, taking it for granted that the land would receive a fairer valuation from resident officers of the County than from those unacquainted with the same, and where such officers have performed that duty and sent in their report with duplicate receipts of the first payment, it has always been the custom of your office to receive the same as prima facie evidence of the fairness of the whole transaction, and a contract issued, unless a complaint is made before the contract issues, in which case the same is withheld until the complaint can be investigated, and I believe this to be a correct rule. I do not believe that it is the duty of the Board to mix in local affairs in any County, nor to interfere in any case after a contract has issued, because certain parties may differ in judgment in the value of the land, from that given by the sworn officers of the County; however, it is the duty of the Board to make our educational lands bring the highest price that can be had, and when a case of fraud is presented it is the undoubted duty of the Board to remedy the evil, and to take immediate steps to cancel the contract. In the case at bar, this step would be sure to meet with defeat. The purchaser of sec. 16, has not been connected with, or participated in any manner whatever in the alleged fraudulent appraisement, and is supposed to have purchased in good faith, and if the officers have been derelict in their duty, and committed any fraud, as is claimed, the matter should be brought to the attention of the District Attorney, who is always willing to protect the interests of the state and bring guilty parties to justice. And in conclusion will say, that in all cases where it is made to appear that the state has been defrauded I will take immediate steps to aright the wrong.

Lincoln, July 10, 1886.

WM. LEESE, Atty. General.

SCHEDULE "B."

CASES IN SUPREME COURT.

No. 1.

Charles A. Holmes	}	From Johnson county. Proceed-
vs.		ing in error to reverse judg-
The State of Nebraska.	}	ment of forfeited recognizance.
		Affirmed.

No. 2.

Otto Dogge	}	From Lancaster county. Prac-
vs.		ticing medicine without a li-
The State of Nebraska.	}	cence. Affirmed.

No. 3.

Ex. Parte, A. F. Eads.	}	<i>Habeas corpus.</i> Gage county. De-
		fective complaint. Writ al-
		lowed.

No. 4.

Enoch Bradshaw	}	From Gage county. Murder in
vs.		second degree. Affirmed.
The State of Nebraska.	}	

No. 5.

State ex rel. Stevenson	}	Mandamus to compel Auditor to
vs.		draw a warrant for Represen-
H. A. Babcock, Auditor.	}	tative for \$5.00 per day. Writ
		denied.

No. 6.

Isaac Whitman	}	From Saunders county. Shoot-
vs.		ing with intent to kill. Af-
The State of Nebraska.	}	firmed.

No. 7.

George Smith	}	From Cass county. Larceny.
vs.		Reversed.
The State of Nebraska.	}	

No. 8.

Uriah Lord	} From Brown county. Adultery.
vs.	
The State of Nebraska.	} Reversed.

No. 9.

State ex rel. Charles E. Bessey	} Mandamus to compel Auditor to draw warrant on the University fund without an appropriation. Writ denied.
vs.	
H. A. Babcock, Auditor.	

No. 10.

State ex rel. Milton McKinnon	} Mandamus to compel Commissioner of Public Lands and Buildings to accept a bid for a lease of school lands. Writ denied.
vs.	
Joseph Scott, Commissioner.	

No. 11.

Quin Bohanan	} From Otoe county. Murder in first degree. Affirmed and writ of error allowed from Supreme Court of the United States. Now pending.
vs.	
The State of Nebraska.	

No. 12.

Joseph Christman	} From Gage county. Bribing a witness. Affirmed.
vs.	
The State of Nebraska.	

No. 13.

Frank Jones	} From Cuming county. Shooting with intent to kill. Reversed.
vs.	
The State of Nebraska.	

No. 14.

State ex rel. D. M. Wiant	} From Franklin county. To compel Auditor to register county bonds. Writ denied.
vs.	
H. A. Babcock, Auditor.	

No. 15.

John McLain	} From Otoe county. Grand larceny. Affirmed.
vs.	
The State of Nebraska.	

No. 16.

State ex rel. Robert Graham	}	Mandamus to compel Auditor to issue a warrant for commission for collecting moneys due the state without an appropriation. Writ denied.
vs. H. A. Babcock, Auditor.		

No. 17.

State ex rel. Wm. Leese, Attorney General	}	Lancaster county. <i>Quo warranto</i> . Ouster.
vs. Farmers & Mechanics Mutual Benefit Association.		

No. 18.

Henry Parrish	}	From Johnson county. Rehearing of same case now reported in 14 Neb. Page 5. Reversed.
vs. The State of Nebraska.		

No. 19.

Henry Seling et al	}	From Adams county. House breaking. Affirmed.
vs. The State of Nebraska.		

No. 20.

James Mills	}	From Douglas county. Criminal libel. Reversed.
vs. The State of Nebraska.		

No. 21.

State ex rel. Anthony Reed	}	From Lancaster county. To compel commissioner to execute a lease on school land. Writ denied.
vs. Joseph Scott, Commissioner.		

No. 22.

State ex rel. Wm. Leese, Attorney General	}	Mandamus to compel County Commissioners to levy a tax to pay for keeping insane patients. Writ allowed.
vs. Douglas County.		

No. 23.

James E. Boyd	}	From Douglas county. Contempt for violating an injunction. Reversed.
vs. The State of Nebraska.		

No. 24.

J. H. McMurtry et al	}	From Lancaster county. Action
vs.		to recover claim due the State.
The State of Nebraska.		Reversed.

No. 25.

State ex rel. City of Lincoln	}	From Lancaster county. Man-
vs.		damus to compel Auditor to
H. A. Babcock, Auditor.		register city refunding bonds. Writ denied.

No. 26.

State ex rel. City of Lincoln	}	From Lancaster county. Man-
vs.		damus to compel Auditor to
H. A. Babcock, Auditor.		register \$50,000 internal im- provement bonds. Writ awarded.

No. 27.

Ex parte John P Maule	}	From Fillmore county. <i>Habeas</i>
		<i>corpus</i> . Defective mittimus
		Writ denied.

No. 28.

Peter Mathews	}	From Lancaster county. Rape.
vs.		Reversed.
The State of Nebraska.		

No. 29.

Charles E. Bowman	}	Red Willow county. Practicing
vs.		confidence game. Reversed.
The State of Nebraska.		

No. 30.

State ex rel. Attorney General	}	Lancaster county. Proceeding
vs.		in disbarment. Defendant
L. C. Burr.		disbarred.

No. 31.

Thomas Ballard	}	From Douglas county. Murder
vs.		in the first degree. Reversed.
The State of Nebraska.		

No. 32.

Enoch Bradshaw	}	From Gage county. Murder second degree. On motion for a new trial. Affirmed.
vs. The State of Nebraska.		

No. 33.

Frank Stevens	}	From Cass county. Robbery Reversed.
vs. The State of Nebraska.		

No. 34.

William H. Reid	}	From Gage county. Retaxation of costs. Affirmed.
vs. The State of Nebraska.		

No. 35.

Thatcher M. Krum	}	From Stanton county. Assault with intent to commit a rape. Reversed.
vs. The State of Nebraska.		

No. 36.

William H. Dickenson	}	From Saunders county. Forfeited recognizance. Reversed.
vs. The State of Nebraska.		

No. 37.

James Casey	}	From Gage county. Stabbing with intent to wound. Reversed.
vs. The State of Nebraska.		

No. 38.

Myrtle Stewart	}	From Lancaster county. Keeping house of ill fame. Reversed.
vs. The State of Nebraska.		

No. 39.

Anna Tripp	}	From Lancaster county. Keeping house of ill fame. Reversed.
vs. The State of Nebraska.		

No. 40.

Emil Peppercorn	}	From Washington county. Rape Affirmed.
vs. The State of Nebraska.		

No. 41.

William B. Thorne	}	From Adams county. Embezzlement. Now pending.
vs.		
The State of Nebraska.		

No. 42.

John Fager	}	From Saline county. Rape. Under advisement.
vs.		
The State of Nebraska.		

No. 43.

Frank Heldt	}	From Colfax county. Placing obstruction on railroad track. Reversed.
vs.		
The State of Nebraska.		

No. 44.

Christian G. Herold	}	From Lancaster county. Fraudulent transfer of personal property. Under advisement.
vs.		
The State of Nebraska.		

No. 45.

Jackson Marion	}	From Gage county. Murder in first degree. Affirmed.
vs.		
The State of Nebraska.		

No. 46.

George E. Parks	}	From Dodge county. Subornation of perjury. Under advisement.
vs.		
The State of Nebraska.		

No. 47.

Thomas Smith	}	From Douglas county. Uttering forged draft. Affirmed.
vs.		
The State of Nebraska.		

No. 48.

John Yeoman	}	From Hamilton county. Incest. Under advisement.
vs.		
The State of Nebraska.		

No. 49.

Stephen Long	}	From Custer county. Manslaughter. Now pending.
vs.		
The State of Nebraska.		

No. 50.

State ex rel. of Wm. Leese At-	}	<i>Quo warranto.</i> Pending.
torney General		
vs.		
Farmers Mutual Live Stock		
Association.		

No. 51.

State ex rel. Wm. Leese Attor-	}	Dakota county. Mandamus to compel treasurer to pay inter- est on bonds due the State. Under advisement.
ney General		
vs.		
G. W. Wilkinson		

No. 52.

State ex rel. Wm. Leese Attor-	}	Washington county. Mandamus to compel County Judge to fix amount of appeal bond. Pend- ing.
ney General		
vs.		
Alonzo Perkins		

No. 53.

State ex rel. Dawson county.	}	Dawson county. Mandamus to compel Auditor to register re- funding bonds. Pending.
vs.		
H. A. Babcock, Auditor.		

No. 54.

State ex rel. City of York	}	York county. Mandamus to com- pel Auditor to register city wa- ter bonds. Under advisement.
vs.		
H. A. Babcock, Auditor.		

No. 55.

Maria Brown	}	Buffalo county. Manslaughter. Proceedings in error dismissed on State's motion. Affirmed.
vs.		
The State of Nebraska.		

No. 56.

Abram C. Wright	}	Gosper county. Burglary. Pend- ing.
vs.		
The State of Nebraska.		

No. 57.

Virgin Allyn	}	Custer county. Nuisance. Now pending.
vs.		
The State of Nebraska.		

No. 58.

State ex rel. Abby Gardner	}	Butler county. Mandamus to compel Auditor to register a bond issued to the L. & N. W. R. R. Co. Pending.
vs.		
H. A. Babcock, Auditor. E. P. Roggen, Secretary of State.		

SCHEDULE "C." .

CASES IN THE SUPREME COURT OF THE UNITED STATES.

Mathias Simmerman	}	Murder in first degree. Dis- missed on motion. Judgment of State Court remaining in full force. Prisoner escaped.
vs. The State of Nebraska.		
Quin Bohanan	}	Murder in first degree. Motion to dismiss overruled and cause is now pending in Court.
vs. The State of Nebraska.		

CASES PENDING IN UNITED STATES CIRCUIT COURT.

The State of Nebraska	}	Now pending.
vs. J. M. Young et al.		
Joseph J. Renne	}	To cancel a lease and issue lease to relator. Now pending.
vs. James W. Dawes and State Officers.		